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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 427600-700079

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on ______________________

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Typed or printed name ______________________

Application Number: 10/680,798

Filed: 10/7/2003

First Named Inventor: Eric G. Hull et al.

Art Unit: 3781

Examiner: Niki M. Eloshway

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☐ attorney or agent of record.
Registration number ______________________

☒ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 32,755

Signature

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Typed or printed name

216/586-7023
Telephone number

September 21, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of ________ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Claims 1-8, 10, 28-30 and 32-35 are rejected under 35 U.S.C. §103(a). The claims recite a wall with knockouts bounded by grooves in the wall. The grooves have depths that vary as recited in the claims.

I. The Examiner's Reliance on the Bordwell Reference (U.S. 5,191,171) is Clear Error

The Examiner relies on Bordwell for the teaching of maximum material thickness at a particular location. Bordwell, however, does not disclose grooves in the wall. Instead, Bordwell discloses knockouts formed by slits cut through the wall. Slits are not grooves. Slits create empty space, which is not structure and has no thickness. Because Bordwell's slits create spaces instead of grooves, and because spaces lack any structure or thickness, Bordwell cannot teach anything regarding the thickness of a wall at a groove.

Moreover, the claims recite grooves in terms of depth, not thickness. Since depth is irrelevant to Bordwell, the Examiner attempts to recharacterize depth as "thickness" to draw a comparison with Bordwell. This confuses the depth of Applicants' grooves with the thickness of Bordwell's webs or hinges. The comparison is improper.

The Examiner compounds this error by stating that Bordwell is applied for the teaching of "maximum material thickness at the tangent location so that the knockouts may hinge instead of being completely removed." See paragraph 10 on page 4 of the final Office Action. This is clear error for at least two reasons. First, Bordwell cannot teach a maximum, minimum, or any other particular value or variation of thickness because his material is *uniform* throughout the entire structure. Second, hinging is entirely irrelevant to this invention but has been imported into the analysis to justify the Examiner's reliance on Bordwell. None of the claims recites hinges or hinging. If hinges were provided, the grooves would not be circular. If hinges were located at the tangent location, the grooves would not overlie each other. Nonetheless, the

Examiner seizes upon the notion of hinging because Bordwell features hinging knockouts formed by slits cut through a wall of material. Hinging simply is not relevant to the claimed invention. Even if it were, the Examiner fails to state why a person skilled in the art would want the knockouts of Kinnard to hinge instead of being completely removed. The Examiner's statements and omissions regarding the disclosure and teaching of the Bordwell reference are clearly erroneous.

Applicants' additional arguments against the Examiner's use of the Bordwell reference are stated in the Remarks on page 13-16 of the Amendment filed on April 19, 2007.

II. The Examiner Ignores the Language of Claim 28

Claim 28 states that the groove bottom is interrupted by an area of weakness. The area of weakness increases the groove depth and reduces the strength of the wall compared to the strength of the wall around the remainder of the groove. Claim 28 thus recites an area of weakness that interrupts the groove bottom and is distinct from the remainder of the groove in both strength and size. With reference to Kinnard on page 6 of the final Office Action, the Examiner states that "the minimum thickness area is considered the area of weakness." This is clear error because the statement ignores the fact that the claimed area of weakness interrupts the groove bottom. Kinnard's groove bottom is not interrupted. Rather, the change in Kinnard's groove depth is gradual and continuous. Kinnard's change in groove depth therefore is not distinct in strength or size. The Examiner's statements overlook the fact that Kinnard and Gehrs do not teach a groove bottom interrupted by a distinct area of weakness. These statements thus reflect clear error.

III. Conclusion

Clear error pervades the rejections made under 35 U.S.C. §103(a) in the final Office Action mailed June 22, 2007. Applicants therefore request reversal of the rejections made in the final Office Action and ask for allowance of claims 1-8, 10, 28-30 and 32-35.

Respectfully submitted,

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